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Counsel for Individual and Representative Plaintiff

**UNITED STATES DISTRICT COURT**

## **NORTHERN DISTRICT OF CALIFORNIA**

JOEL RUIZ, On Behalf of Himself and All  
Others Similarly Situated,

Plaintiff,

VS.

GAP, INC., and DOES 1-9 inclusive,

Defendant

Case No. CV07-05739-SC

**AMENDED DECLARATION OF  
TRACY D. REZVANI IN OPPOSITION  
TO DEFENDANT'S MOTION TO  
STRIKE CLASS DEFINITION**

Date: September 5, 2008

Time: 10:00 a.m.

Room: Courtroom 1, 17th Floor

Judge: Honorable Samuel Conti

1 I, Tracy D. Rezvani, declare as follows:

2 1. I am member in good standing of the District of Columbia and have been  
3 admitted to practice *pro hac vice* in this litigation. I am a partner with the law firm of Finkelstein  
4 Thompson LLP, attorneys for Plaintiff Joel Ruiz. This declaration is based on my own personal  
5 knowledge and if called to testify, I could and would do so competently as to the matters set  
6 forth herein. I am submitting this declaration in support of Plaintiff's Opposition to Defendant  
7 Gap Inc.'s Motion to Strike Class Definition.

8 2. Attached hereto as Exhibit A is a true and correct copy of a letter dated July 10,  
9 2008 from Gap's counsel to Plaintiff's counsel enclosing a DVD containing documents with  
10 Bates numbers GAP000001-GAP002349. My office received this letter and the enclosure on  
11 July 11, 2008.

13 3. Attached hereto as Exhibit B is a true and correct copy of a letter dated August 6,  
14 2008 from Gap's counsel to Plaintiff's counsel enclosing a DVD containing documents with  
15 Bates numbers GAP002350-GAP009075. My office received this letter and enclosure on  
16 August 7, 2008.

17 4. To date, my office has not had the opportunity to complete its review of Gap's  
18 document production to determine whether Gap has produced all responsive documents in  
19 response to Plaintiff's document requests. Gap's counsel, however, has informed Plaintiff that  
20 Gap's document production is complete. Plaintiff's review of the document production to date,  
21 however, casts doubt on Gap's assertion that it is unaware of any actual identity theft caused by  
22 the laptop theft. This information is covered by the terms of the parties' stipulated  
23 Confidentiality Order. Therefore, Plaintiff will not provide this information to the Court at this  
24 stage.

26 5. Attached hereto as Exhibit C are true and correct copies of excerpts from the  
27 transcript of Plaintiff's deposition, taken on June 18, 2008.

6. On August 14, 2008, I spoke with Gap's counsel, William Stern, who explained that Gap's witnesses may not be available for deposition until the week of September 8, 2008.

7. Attached hereto as Exhibit E is a true and correct copy of an excerpt from the docket in the case entitled *In re: TJX Companies Retail Security Breach Litigation*, Case No. 07-cv-10162-WGY, pending in the United States District Court, District of Massachusetts before the Honorable William G. Young.

I declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct. Executed this 22<sup>nd</sup> day of August, 2008 in Washington, D.C.

/s/ Tracy D. Rezvani  
Tracy D. Rezvani

I, Daniel T. LeBel, the attorney under whose ECF login the Corrected Declaration of Tracy Rezvani in Opposition to Defendant's Motion to Strike Plaintiff's Class Definition is filed attest that this document was filed at the direction of Tracy D. Rezvani.

Daniel T. LeBel